

Wetlands and Fish & Wildlife Habitat Conservation Areas

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1 PART 000 – GENERAL

2

3 30.62A.010 Purpose and applicability.

4 (1) The purpose of this chapter is to provide critical area regulations pursuant to the
5 Growth Management Act [chapter 36.70A RCW] for the designation and protection of:

6 (a) Wetlands, and

7 (b) Fish and wildlife habitat conservation areas including:

8 (i) streams;

9 (ii) lakes;

10 (iii) marine waters; and

11 (iv) primary association areas for critical species

12 (2) This chapter applies to:

13 (a) Development activities, actions requiring project permits, and clearing, except for the
14 following:

15 (i) Non-ground disturbing interior or exterior building improvements;

16 (ii) Routine landscape maintenance of established, ornamental landscaping;

17 (iii) Exterior structure maintenance, including, but not limited to, painting and
18 roofing;

19 (iv) Removal of noxious weeds conducted in accordance with chapter 16-750
20 WAC;

21 (v) Maintenance or replacement that does not expand the affected area of the
22 following existing facilities:

23 (A) septic tanks and drainfields;

24 (B) wells;

25 (C) individual utility service connections; and

26 (D) individual cemetery plots in established and approved cemeteries;

27 (vi) Data collection and research by non-mechanical means if performed in
28 accordance with state-approved sampling protocols or Endangered Species Act (ESA) Section
29 10(a)(1)(a), Section 7 consultation (16 USC § 1536);

30 (vii) Non-mechanical survey and monument placement; and

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1 (viii) Quasi-judicial rezones not accompanied by another permit or approval.

2 (b) Agricultural activities, which are subject only to Part 600 of this chapter; except that
3 certain agricultural activities as defined in SCC 30.62.015(1) occurring on rural and agricultural
4 resource lands are exempt from this chapter and are subject only to chapter 30.62 SCC.

5
6
7 **30.62A.015 Intent**

8 It is the intent of this chapter to provide the protection required by chapter 36.70A RCW for
9 wetlands and for fish & wildlife habitat conservation areas while simultaneously protecting
10 property rights. The county council nevertheless recognizes that implementation of some
11 provisions of this chapter 30.62A SCC will inevitably entail some restriction of property rights.
12 It is the intent of the county council that this chapter be always construed and interpreted so that
13 property rights be restricted no further than strictly necessary for the critical area protection
14 required under chapter 36.70A RCW.

15
16 **30.62A.020 Relationship to Snohomish County Shoreline Management Program.**

17 Protection of wetlands and fish and wildlife habitat conservation areas located within shorelines
18 of the state, as defined in chapter 90.58 RCW, shall be accomplished through compliance with
19 the provisions of this chapter. Nothing in this section shall be construed to be inconsistent with
20 RCW 36.70A.480.

21
22 **30.62A.030 Relationship to chapter 30.61 SCC – environmental impacts.**

23 Critical area protective measures required by this chapter shall also constitute adequate
24 mitigation of adverse or significant adverse environmental impacts on wetlands, fish and wildlife
25 habitat conservation areas and their buffers pursuant to chapter 30.61 SCC, to the extent
26 permitted by RCW 43.21C.240.

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2 **30.62A.040 Rulemaking authority.**
3 The director shall have the authority to adopt administrative rules to implement the provisions of
4 this chapter. Rulemaking authority shall include, but is not limited to, the adoption of best
5 management practices for the regulation of wetlands, fish and wildlife habitat conservation areas
6 and buffers.

7
8

9 **PART 100 – PROCESS REQUIREMENTS**

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11 **30.62A.110 Permit pre-applications.**
12 Project proponents may request a pre-application meeting pursuant to SCC 30.70.020 to obtain a
13 preliminary analysis of how the requirements of this chapter apply to the proposed project.

14

15 **30.62A.120 Critical area services provided by the department.**

16 The department may provide the following services to applicants for single family residential
17 (SFR) dwellings, duplexes, and accessory structures, and commercial structures of 8,000 square
18 feet or less upon submittal of the application and the payment of fees as required by chapter
19 30.86 SCC:

- 20 (1) Identification of fish and wildlife habitat conservation areas;
21 (2) Development of habitat management plans; and
22 (3) Delineation and categorization of streams and wetlands.

23

24 **30.62A.130 Submittal requirements.**

25 (1) For any development activity or action requiring a project permit, the applicant shall
26 submit a site development plan drawn to a standard engineering scale which includes:

- 27 (a) Boundary lines and dimensions of the subject property;
28 (b) Boundary lines and dimensions of the site;
29 (c) The topography at contour intervals of five feet unless the underlying project
30 permit requires a lesser interval;

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1 (d) Location, size, and type of any existing structures and other existing developed
2 areas;

3 (e) Location, size and type of all development activity and clearing on the site;

4 (f) Location and description of all wetlands, fish and wildlife habitat conservation
5 areas and buffers, located on the site within 300 feet of the site boundaries;

6 (g) Location of all other critical areas regulated pursuant to chapters 30.62B,
7 30.62C and 30.65 SCC on or within 200 feet of the site; and

8 (h) Location of structure setbacks as required in SCC 30.62B.340(2) and chapter
9 30.23 SCC.

10 (2) In addition to a site development plan the following additional information will be
11 required where applicable:

12 (a) Classification of all streams, wetlands or lakes pursuant to SCC 30.62A.230
13 (Table 1). Classification is not required if the project permit applicant applies the maximum
14 protection for the specific critical area as specified at SCC 30.62A.320 (Table 2);

15 (b) Provisions for permanent protection as specified at SCC 30.62A.160;

16 (c) Provisions for temporary marking on the site of all critical area protection areas,
17 or the limits of the proposed site disturbance outside of the critical area protection areas; and

18 (d) A critical area study as required by SCC 30.62A.140.

19 **30.62A.140 Critical area study content requirements.**

20 For any development activity or action requiring a project permit occurring in wetlands, fish and
21 wildlife habitat conservation areas, or within a buffer unless otherwise provided in Part 300, the
22 director may require, where applicable, a survey or map drawn to scale and a report describing
23 the following information:

24 (1) A wetland delineation map and report, including field worksheets in accordance with
25 the manual adopted by the Department of Ecology pursuant to RCW 36.70A.175. (See Wetlands
26 Identification and Delineation Manual, Department of Ecology Publication #96-94, March 1997,
27 or latest edition). This requirement may be waived if a wetland delineation has been performed
28 within the previous five years that was approved by the department, and the department
29 determines after site review that the wetland boundary is the same as the approved delineation;

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- 1 (2) Wetland categorization, including worksheets, documenting the proposed wetland
- 2 categories, based on the Wetland Rating System for Western Washington, (Hruby, T., August
- 3 2004, or latest edition, Department of Ecology Publication #04-06-025);
- 4 (3) Wetland classes present as defined in the United States Fish and Wildlife Service’s
- 5 Classification of Wetlands and Deep Water Habitats in the U.S. (Cowardin et al., 1979);
- 6 (4) Stream location, stream name (if named), and stream type pursuant to the typing
- 7 system contained in SCC 30.62A.230 (Table 1);
- 8 (5) Lake location, lake name (if named), and lake type pursuant to the typing system
- 9 contained in SCC 30.62A.230 (Table 1);
- 10 (6) The ordinary high-water mark of any stream, lake or marine water;
- 11 (7) A description and illustration of proposed activities within any critical area or
- 12 buffers;
- 13 (8) An assessment of the existing functions and values of the critical area(s) or buffers
- 14 that will be affected by the proposed activity and the methods used to assess those functions and
- 15 values;
- 16 (9) An assessment of how the activity meets the protection standards established in SCC
- 17 30.62A.310 and SCC 30.62A.450. For applications under SCC 30.62A.350, an assessment of
- 18 how the proposal protects the functions and values specified in SCC 30.62A.220, and how the
- 19 proposal provides protection equivalent to the standards established in SCC 30.62A.310 and
- 20 SCC 30.62A.450. Proposals offering better protection would also be acceptable;
- 21 (10) A mitigation plan for activities occurring in a critical area or buffer according to
- 22 the requirements in SCC 30.62A.150;
- 23 (11) A habitat management plan in accordance with SCC 30.62A.460 for any activity
- 24 occurring within the primary association area of a critical species;
- 25 (12) When shoreline or bank stabilization measures and/or flood protection measures are
- 26 proposed, a geotechnical report investigating alternative structural and non-structural methods
- 27 pursuant to SCC 30.62B.140; and
- 28 (13) Any other information necessary to determine compliance with this chapter.
- 29

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1 **30.62A.150 Mitigation plan requirements.**

2 Unless otherwise provided by this chapter, project permit applicants must provide a mitigation plan to
3 address impacts to affected wetland, fish and wildlife habitat conservation area, or buffer functions and
4 values as identified in the critical area study required pursuant to SCC 30.62A.140, provided that
5 mitigation for the primary association area of critical species shall also comply with the requirements of
6 Part 400.

7 (1) All mitigation plans shall:

8 (a) Include a baseline study that describes and evaluates the existing functions and values,
9 the functions and values that will be impacted, and the functions and values after mitigation;

10 (b) Specify how functions and values lost as a result of the activity will be replaced;

11 (c) Specify when mitigation will occur relative to project construction and to the
12 requirements of permits required by other jurisdictional entities;

13 (d) Include provisions for monitoring and maintenance of the mitigation area on a
14 long-term basis to determine whether the plan was successful. The length of time for monitoring
15 and maintenance should be sufficient to determine if mitigation performance standards have been
16 achieved;

17 (e) Include provisions for performance and maintenance security pursuant to
18 chapter 30.84 SCC to ensure that work is completed in accordance with approved plans; and

19 (f) Include provisions on a form approved by the department for right of entry to
20 the county for the purpose of inspection for the length of the monitoring and maintenance period.

21 (2) For development activities that require approval by the hearing examiner or those
22 that receive phased administrative, conditional or preliminary approvals, the director may allow
23 mitigation plans to be submitted in two phases: a conceptual phase and a detailed plan phase.

24

25 **30.62A.160 Permanent identification, protection and recording.**

26 The following measures for permanent identification and protection of wetlands, fish and
27 wildlife habitat conservation areas and buffers are required for any development activity or
28 action requiring a project permit, except those occurring in public and private road or utility

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1 easements and rights-of-way, or those conducted for the primary purpose of habitat
2 enhancement.

3 (1) Critical area site plan.

4 (a) All wetlands, fish and wildlife habitat conservation areas and, buffers shall be
5 designated on a critical area site plan as critical area protection areas.

6 (b) The critical area site plan shall be drawn to a standard engineering scale and
7 include at minimum:

8 (i) the boundaries of the site;

9 (ii) a legal description of the subject property;

10 (iii) accurate locations/boundaries of the critical area protection area(s),
11 identified by critical area type;

12 (iv) provisions allowing habitat enhancement in wetland(s), fish and wildlife
13 habitat conservation area(s) and buffers; and

14 (v) provisions for the permanent protection of the critical area(s) functions and
15 values including, at minimum, the following:

16 (A) restrictions on the construction of new structures;

17 (B) restrictions on the removal of existing native vegetation; and

18 (C) restrictions on other development activities that would adversely
19 affect the functions and values of the wetland(s), fish and wildlife habitat
20 conservation area(s), or buffers.

21 (2) Recording. Critical area site plans shall be recorded with the county auditor.

22 Documentation of recording shall be provided to the department prior to permit issuance.

23 (3) Separate tracts and easements. Wetlands, fish and wildlife habitat conservation
24 areas, and buffers shall be located in separate tracts owned in common by all owners of the lots
25 or parcels within any land division or land use permit or decision regulated pursuant to chapters
26 30.41A, 30.41B, 30.41C and 30.41D SCC. Provided that in urban growth areas, wetlands, fish
27 and wildlife habitat conservation areas and buffers may be contained in an easement on
28 individual lots or parcels in a form approved by the department.

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1 (4) Previously approved critical area site plans. For any development activity, action
2 requiring a project permit or clearing occurring consistent with a previously approved critical
3 area site plan shall be governed according to the terms and conditions of the approved site plan,
4 provided that all wetlands, fish and wildlife habitat conservation areas and buffers have been
5 identified and specific permanent protection has been provided.

6 (5) Permanent marking. Critical area protection area boundaries shall be permanently
7 marked on the site prior to final inspection by the county using methods and materials acceptable
8 to the county, provided that this requirement does not apply to single family residential
9 development occurring on existing lots.

PART 200 – DESIGNATION, FUNCTIONS AND VALUES, AND CLASSIFICATION

30.62A.210 Designation of wetlands and fish and wildlife habitat conservation areas.

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15 The county has designated wetlands and fish and wildlife habitat conservation areas pursuant to
16 RCW 36.70A.170 by defining them and providing criteria for their identification and
17 establishing the functions and values to be protected. Project proponents are responsible for
18 determining whether a wetland or fish and wildlife habitat conservation area exists and is
19 regulated pursuant to this chapter. The department will verify on a case-by-case basis the
20 presence of wetlands and fish and wildlife habitat conservation areas identified by project
21 proponents. Specific criteria for the designation of wetlands and fish and wildlife habitat
22 conservation areas are contained in this chapter and chapter 30.91 SCC. While the county
23 maintains some maps of wetlands and fish and wildlife habitat conservation areas, they are for
24 informational purposes only and may not accurately represent all such areas.

30.62A.220 Functions and values of wetlands, fish and wildlife habitat conservation areas and buffers.

25
26
27
28 The functions and values listed in this section are included primarily based on their ecological
29 relationship and value to the critical areas subject to this chapter, and include, but are not
30 necessarily limited to, the following elements:

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1 (1) Streams. Fish and wildlife habitat; transport of water, sediment and organic material;
2 floodwater storage and attenuation;

3 (2) Wetlands. Fish and wildlife habitat, pollution assimilation, sediment retention,
4 shoreline stabilization, floodwater storage, attenuation and conveyance, wave energy attenuation,
5 stream base-flow maintenance, and groundwater discharge/recharge;

6 (3) Lakes. Fish and wildlife habitat, sediment retention, pollution assimilation, and
7 floodwater attenuation, storage and conveyance;

8 (4) Marine waters. Fish and wildlife habitat; wind, wave and current attenuation;
9 sediment supply; longshore transport of sediment; and pollution assimilation;

10 (5) Primary association areas of critical species. Fish and wildlife habitat; and

11 (6) Buffers. Habitat for water associated and riparian associated wildlife, wildlife
12 movement corridors, noise and visual screening, large woody debris and other natural organic
13 matter recruitment, floodwater attenuation and storage, temperature maintenance, pollution
14 assimilation, streambank stabilization and supply of sediments and nutrients.

15

16 **30.62A.230 Classification of streams, lakes, wetlands and marine waters.**

17 (1) Classification of streams, lakes and marine waters shall be established in accordance
18 with the water typing rules contained in WAC 222-16-030, summarized in Table 1. In the event
19 of a conflict between WAC 222-16-030 and the contents of Table 1, the provisions in WAC 222-
20 16-030 will govern.

21 (2) Classification and scoring of wetlands shall occur pursuant to the rating system and
22 criteria contained in the Wetland Rating System for Western Washington, (Washington State
23 Department of Ecology Publication #04-06-025) summarized in Table 1. In the event of a
24 conflict between the DOE publication and the contents of Table 1, the provisions in the DOE
25 publication will govern.

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Table 1 - Classification of streams, lakes and wetlands

Classification	Classification Criteria Summary
Streams and Lakes	
Type S	Segments of natural waters within their bankfull width, as inventoried as “shorelines of the state” under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW.
Type F	<p>Segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels or within lakes having a surface area of 0.5 acres or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories:</p> <p>(a) Are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the Washington State Department of Natural Resources to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;</p> <p>(b) Are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality;</p> <p>(c) Waters which are within federal, state, local or private campgrounds with more than 10 camping units: Provided that the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;</p> <p>(d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat.</p>
Type Np	Segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of the year of normal rainfall. However, for the purpose of water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. Np waters begin downstream of the point along the channel where the contributing basin area is at least 52 acres in size.

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Type Ns	Segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Ns waters must be physically connected by an above-ground channel system to Type S, F, or Np waters.
Wetlands	
Category I	Washington Natural Heritage Program/DNR high quality wetlands
	Bogs
	Estuarine (greater than or equal to one acre) & Coastal Lagoons
	High Level Habitat Function (habitat function score is 29-36)
	Moderate Level Habitat Function (habitat function score is 20-28)
	Total score 70 or above but not meeting above criteria
Category II	Estuarine (less than one acre)
	High level of function for habitat (habitat function score is 29-36)
	Moderate level of function for habitat (habitat function score is 20-28)
	High level of function for water quality improvement and low for habitat (water quality function score is 24 – 32 and habitat function score is less than 20)
	Total score 51-69 but not meeting above criteria
Category III	Moderate Level Habitat Function (habitat function score is 20-28)
	Total score of 30-50 but not meeting above criteria
Category IV	Total score for all functions less than 30 points

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PART 300 – STANDARDS AND REQUIREMENTS

30.62A.310 General standards and requirements.

(1) This Part establishes specific standards and requirements for protection of wetlands and fish and wildlife habitat conservation areas, and under what circumstances mitigation may be used to address the impacts of development.

(2) Any development activity, action requiring a project permit or clearing occurring within wetlands, fish and wildlife habitat conservation areas, and buffers is prohibited unless conducted in compliance with this chapter.

(3) Except as otherwise provided in Part 500, all development activities, actions requiring a project permit or clearing shall be designed and conducted to achieve no net loss of critical area functions and values and comply with the following general standards and requirements:

(a) The project proponent shall make all reasonable efforts to avoid and minimize impacts to wetlands, fish and wildlife habitat conservation areas, and buffers in the following sequential order of preference:

(i) avoiding impacts altogether by not taking a certain action or parts of an action; or;

(ii) when avoidance is not possible, minimizing impacts by limiting the degree or magnitude of the action and its implementation, using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts; and mitigating for the affected functions and values of the critical area;

(b) When mitigation is required it shall be conducted in accordance with the following requirements:

(i) mitigation location. Unless otherwise provided in this chapter, mitigation for impacts to the functions and values of wetlands, fish and wildlife habitat conservation areas and buffers shall be in-kind and on-site. Off-site mitigation may be approved only in those situations where appropriate and adequate on-site mitigation can not replace the function(s) of

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1 the wetlands, fish and wildlife habitat conservation area(s) or buffers at an equivalent level to the
2 off-site location. Off-site mitigation must occur in the same sub-drainage basin for streams, lakes
3 and wetlands, or drift cell for marine waters;

4 (ii) mitigation timing. Mitigation shall be completed prior to granting of final
5 building occupancy, or the completion or final approval of any development activity or action
6 requiring a project permit for which mitigation measures have been required, except as set forth
7 in chapter 30.84 SCC; and

8 (iii) function replacement. Unless otherwise provided in this chapter, functions
9 and values shall be replaced at a one to one ratio;

10 (c) A project proponent may demonstrate compliance with SCC 30.62A.310(3) by:

11 (i) adhering to the standards and requirements in SCC 30.62A.320(1), .330(1),
12 .340(1) and (2) and .450 of this chapter as applicable; or by

13 (ii) adhering to the performance standards in SCC 30.62A.320(2) and (3),
14 .330(2), .340(3) and (4), or .350 and mitigating for impacted functions and values as follows:

15 (A) any development activity, action requiring a project permit or
16 clearing allowed pursuant to SCC 30.62A.320(2), .330(2), .340(3) or .350 shall also
17 comply with general mitigation requirements in SCC 30.62A.310(3). Activities not listed
18 or deviations from the standards contained in Part 300 may only be conducted pursuant to
19 SCC 30.62A.350 or Part 500; and

20 (B) any development activity or action requiring a project permit
21 listed in SCC 30.62A.320(2), .330(2), .340(3) or .350 shall also comply with the critical
22 area study requirements of SCC 30.62A.140, and the mitigation plan requirements of
23 SCC 30.62A.150; and

24 (d) Permanent identification and protection of wetlands, fish and wildlife habitat
25 conservation areas, and their buffers shall be provided as required by SCC 30.62A.160.

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1 **30.62A.320 Standards and requirements for buffers**

2 Buffers shall be required adjacent to streams, lakes, wetlands and marine waters to protect the
3 functions and values of these aquatic critical areas.

4 (1) Buffer standards and requirements – no mitigation required. All development activities,
5 actions requiring project permits and clearing that comply with the buffer requirements of SCC
6 30.62A.320(1)(a) through (g) satisfy the avoidance criteria of SCC 30.62A.310(3) and are not
7 required to provide mitigation.

8 (a) Buffer widths shall be as set forth in Table 2a or 2b below.

9
10

Table 2a – Stream, Lake and Marine Buffer Width Standards (Feet)		
<i>Streams and Lakes</i>		
Type S		150
Type F with anadromous or resident salmonids		150
Type F without anadromous or resident salmonids		100
Type Np		50
Type Ns		50
<i>Marine Waters</i>		
Type 1	All marine waters	150

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Table 2b: Wetland Buffer Width Standards (feet)

<i>Wetlands</i>						
Wetland Category	Description	Buffer Width Requirements (feet)				
		Standard Buffer Width	High Intensity Land Use ¹ [30.62A.340(4)(b)]			Low Intensity Land Use ²
			Buffer w/out mitigation measure 1 or 2	Buffer w/mitigation measure 1 (*may use measure 1 OR 2)	Buffer w/mitigation measures 1 AND 2	
Wetlands containing salmonids (minimum)		150				
Category I	Washington Natural Heritage Program/DNR high quality wetlands	190	250	220*	190	125
	Bogs	190	250	220*	190	125
	Estuarine (at least 1 acre) & Coastal Lagoons	150	200	175*	150	100
	High Level Habitat Function (habitat function score is 29-36)	225	300	262*	225	150
	Moderate Level Habitat Function (habitat function score is 20-28)	110	150	130*	110	75
	Total score 70 or above but not meeting above criteria	75	100	75		50
Category II	Estuarine (less than 1 acre)	110	150	130*	110	75
	High level of function for habitat (habitat function score is 29-36)	225	300	262*	225	150
	Moderate level of function for habitat (habitat function score is 20-28)	110	150	130*	110	75
	High level of function for water quality improvement and low for habitat (water quality function score is 24 – 32 and habitat function score is less than 20)	75	100	75		50
	Total score 51-69 but not meeting above criteria	75	100	75		50
Category III	Moderate Level Habitat Function (habitat function score is 20-28)	110	150	110		75
	Total score of 30-50 but not meeting above criteria	60	80	60		40
Category IV	Total score for all functions less than 30 points	40	50	40		25

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¹ High intensity land uses include:

- commercial or industrial uses
- nonresidential use in zones where the primary intent is residential use as per SCC 30.21.025
- Residential use (4 or more units/acre)
- High-intensity recreation (golf courses, ball fields, ORV parks, etc.)

² Low intensity land uses include:

- Forestry (cutting of trees only)
- Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.)
- Unpaved trails
- Utility corridor without a maintenance road and little or no vegetation management.

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(b) Buffer widths shall be measured as follows:

(i) the buffer for streams, lakes and marine waters shall be measured from the ordinary high-water mark extending horizontally in a landward direction and for wetlands, the buffer shall be measured from the edge of the wetland extending horizontally in a landward direction; and

(ii) provided however, where the landward edge of the standard buffer shown in Table 2a or 2b extends on to a slope of 33 percent or greater, the buffer shall extend to a point 25 feet beyond the top of the slope.

(c) Within buffers, the following restrictions on impervious surfaces apply:

(i) no new effective impervious surfaces are allowed within the buffer of streams, wetlands, lakes or marine waters; and

(ii) total effective impervious surfaces shall be limited to 10 percent within 300 feet of:

- (A) any streams or lakes containing salmonids;
- (B) wetlands containing salmonids; or
- (C) marine waters containing salmonids.

(d) All development activities, actions requiring project permits or clearing shall be designed to avoid the loss of or damage to trees in buffers due to blow down or other causes.

(e) The following measures for reducing buffer width and area may be used without a critical area study or mitigation plan:

(i) separate tract reductions. Up to a 15 percent reduction of the standard buffer is allowed when the buffer and associated aquatic critical area are located in a separate tract as specified in SCC 30.62A.160(3);

(ii) fencing reductions. Up to a 15 percent reduction of the standard buffer is allowed when a fence is installed along the perimeter of the buffer. The fence shall be designed and constructed as set forth below:

- (A) the fence shall be designed and constructed to be a permanent structure;

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1 (B) the fence shall be designed and constructed to clearly demarcate the
2 buffer from the developed portion of the site and to limit access of landscaping
3 equipment, vehicles, or other human disturbances; and

4 (C) the fence shall allow for the passage of wildlife, with a minimum gap
5 of one and one half feet at the bottom of the fence, and a maximum height of three
6 and one half feet at the top; and

7 (iii) for permanent fencing combined with separate tracts, the maximum
8 reduction shall be limited to 25 percent.

9 (f) The following buffer reduction methods are only allowed in conjunction with a
10 critical area study, pursuant to SCC 30.62A.140, demonstrating that the methods will provide
11 protection equivalent to the standard requirements contained in Table 2. Proposals offering
12 better protection would also be acceptable:

13 (i) the width of a buffer may be averaged, by reducing the width of a portion
14 of the buffer and increasing the width of another portion of the same buffer, if all of the
15 following requirements are met:

16 (A) averaging will not diminish the functions and values of the wetland(s),
17 fish and wildlife habitat conservation area(s) or buffer(s);

18 (B) the total area of the buffer on the subject property may not be less than
19 the area that would have been required if averaging had not occurred;

20 (C) the total area of buffer averaging shall be placed between the
21 developed area and the wetland, lake, stream or marine water;

22 (D) no part of the width of the buffer may be less than 50 percent of the
23 standard required width or 25 feet, whichever is greater;

24 (E) averaging of a buffer shall not be allowed where the reduction extends
25 into associated sloping areas of 33 percent or greater; and

26 (F) buffers on isolated - wetlands or lakes located in close proximity to
27 other aquatic critical areas shall be connected by corridors of native vegetation
28 where possible using the buffer averaging provisions of this section and the
29 following criteria:

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1 (1) the width of the corridor connection between the aquatic critical areas
2 shall be no less than the combined average of the standard buffers for each of the critical
3 areas, provided that if there is not sufficient buffer area available when using averaging to
4 establish a connection, a connection is not required;

5 (2) no more than 25% of the buffer of the individual critical areas shall be
6 used to make a corridor connection;

7 (3) the corridor connection shall be established where feasible using the
8 highest quality habitat existing between the critical areas;

9 (ii) enhancement reductions. Up to a 25 percent reduction of the standard
10 buffer width and area is allowed provided the project proponent demonstrates the
11 enhancement complies with all of the following criteria:

12 (A) a comparative analysis of buffer functions and values prior to and after
13 enhancement, demonstrates that there is no net loss of buffer functions and values;

14 (B) a full enhancement reduction shall only be allowed where it can be
15 demonstrated that the existing buffer functions and values are non-existent or
16 significantly degraded. Buffers with partial function may receive a partial or
17 prorated reduction; and

18 (C) the total buffer area after reduction is not less than 75 percent of the
19 total buffer area before reduction;

20 (iii) reductions may be combined based on the following criteria:

21 (A) for enhancement combined with permanent fencing, the maximum
22 reduction in width and area shall be limited to 30 percent; and

23 (B) for enhancement combined with separate tracts, the maximum
24 reduction in both width and area shall be limited to 30 percent.

25 (g) When averaging is used in combination with any or all of the reduction methods
26 contained in this section, the buffer shall not be reduced to less than half of the standard buffer
27 widths contained in SCC 30.62A.320(1)(a), Table 2.

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1 (2) Buffer standards and requirements – mitigation required. All actions, structures or
2 facilities listed in this section are allowed only when they are determined to be unavoidable
3 pursuant to SCC 30.62A.310(3) and are conducted according to the standards and requirements
4 identified in this section. When a permit is required, an applicant must also provide a critical
5 area study meeting the requirements of SCC 30.62A.140 and a mitigation plan meeting the
6 requirements of SCC 30.62A.150.

7 (a) New utilities and transportation structures are allowed within buffers when:

- 8 (i) no other feasible alternative exists or the alternative would result in
9 unreasonable or disproportionate costs; and
- 10 (ii) location, design and construction minimizes impacts to the buffers pursuant
11 to SCC 30.62A.310.

12 (b) Stormwater detention/retention facilities are allowed pursuant to the
13 requirements of SCC 30.63A.240.

14 (c) Access through buffers is allowed provided it is designed and constructed to be
15 the minimum necessary to accommodate the use or activity.

16 (d) Construction of pedestrian walkways or trails in buffers is allowed when
17 constructed with natural permeable materials and does not exceed 6 feet in width.

18 (e) Trimming of vegetation for purposes of providing a view corridor in a buffer is
19 allowed provided that:

- 20 (i) trimming shall not include felling, topping, or removal of trees and be
21 limited to hand pruning of branches and vegetation;
- 22 (ii) trimming and limbing of vegetation for the creation and maintenance of
23 view corridors shall occur in accordance with the pruning standards of the International
24 Society of Arboriculture (See articles published by the International Society of
25 Arboriculture, Consumer Information Program, updated July, 2005);
- 26 (iii) trimming shall be limited to view corridors of 30 feet wide or 50 percent of
27 the lot width, whichever is less;
- 28 (iv) no more than 30 percent of the live crown shall be removed; and
- 29 (v) the activity will not increase the risk of landslide or erosion.

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1 (f) New shoreline and bank stabilization measures or flood protection are allowed
 2 pursuant to 30.62A.330(2).

3 (g) Reconstruction or replacement of buildings may be allowed provided the new
 4 building does not encroach further into a critical area or its buffer than did the original building
 5 being reconstructed or replaced.

6 (3) Buffer standards and requirements – mitigation ratios. To mitigate impacts to
 7 functions and values of buffers, the ratios in Table 3 shall be required unless using the provisions
 8 of innovative development in 30.62A.350. The ratios are based upon the existing type of
 9 vegetative cover and are expressed in terms of the number of acres needed to recover the lost
 10 functions and values of one acre of buffer area. For impacts to buffers that permanently remove
 11 existing vegetation, functions and values shall be assumed to be replaced by creating or
 12 enhancing new buffers at the following ratios:

13
 14 **Table 3 –Buffer Mitigation Ratios**

Existing Riparian habitat vegetation type	Creation	Enhancement ¹
Mature forest	6:1	12:1
Non-mature forest	3:1	6:1
Shrub	2:1	4:1
Non-woody vegetation	1.5:1	3:1
No vegetated cover	1:1	2:1
¹ enhancement of the existing buffer is allowed in lieu of creation for up to one acre of buffer loss		

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30.62A.330 Standards and requirements for activities conducted within streams, lakes and marine waters.

This section provides standards and requirements for activities conducted within streams, lakes and marine waters. Protection of streams, lakes and marine waters is inextricably linked to protection of the adjacent buffers. Standards and requirements for buffers adjacent to streams, lakes and marine waters are found in SCC 30.62A.320.

(1) Standards and requirements for streams, lakes and marine waters – no mitigation required. Any development activity, action requiring project permit or clearing that does not encroach into streams, lakes or marine waters and provides buffers consistent with the requirements of SCC 30.62A.320(1) satisfies the avoidance criteria of SCC 30.62A.310(3) and do not require mitigation.

(2) Standards and requirements for streams, lakes and marine waters – mitigation required. All actions, structures or facilities listed in this section are allowed only when they are determined to be unavoidable pursuant to SCC 30.62A.310(3), and are conducted according to the standards and requirements identified in this section. When a permit is required, an applicant must also provide a critical area study meeting the requirements of SCC 30.62A.140 and a mitigation plan meeting the requirements of SCC 30.62A.150.

(a) All development activities, actions requiring project permits and clearing shall meet the following requirements:

(i) the project shall be sited and designed to prevent the need for shoreline or bank stabilization and structural flood hazard protection measures for the life of the development;

(ii) the project shall be sited and designed to avoid the need for new or maintenance dredging; and

(iii) the project shall not obstruct the source and movement of sediment from bluffs along marine waters except as necessary pursuant to SCC 30.62A.330(2)(b).

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1 (b) Shoreline and streambank stabilization and flood protection measures. Shoreline
2 and streambank stabilization and flood protection measures are only allowed to protect an
3 existing primary structure; new or existing utilities, roads and bridges; agricultural land; or as
4 part of a project where the sole purpose is to protect or restore wetlands, fish and wildlife habitat
5 conservation areas or buffers. Activities allowed under SCC 30.62A.330(2)(b) shall meet the
6 following conditions:

7 (i) the applicant shall submit a geotechnical report as required pursuant to
8 SCC 30.62B.140 which establishes that the stabilization or flood protection is necessary;

9 (ii) non-structural measures shall be used unless a geotechnical report indicates
10 that the only alternative is use of structural stabilization measures;

11 (iii) the activity shall avoid interrupting hyporheic zone continuity; and

12 (iv) the activity should be designed and constructed based on the guidance
13 contained in the Integrated Streambank Protection Guidelines (Washington State
14 Department of Fish and Wildlife, April 2003) and the Alternative Bank Protection
15 Methods for Puget Sound Shorelines (Washington State Department of Ecology, May
16 2000, Publication #00-06-012) as appropriate for the type of critical area impacted.

17 (c) Utility construction. For utilities permitted under Title 30 SCC and Title 13
18 SCC, the following additional requirements shall apply:

19 (i) new utility crossings shall be bored beneath types S and F streams, and
20 channel migration zones where feasible;

21 (ii) underground utilities shall avoid interrupting hyporheic zone continuity;

22 (iii) utilities shall be contained within the developed footprint of existing roads
23 or utility crossings, where feasible;

24 (iv) utilities placement shall not increase or decrease the natural rate of shore
25 migration, channel migration or longshore sediment transport within a drift cell;

26 (v) utilities placement shall avoid interrupting downstream movement of wood
27 and sediment; and

28 (vi) new overhead electrical facilities are allowed when no other feasible alternative
29 exists or the alternative would result in unreasonable or disproportionate costs, and the

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1 location, design and construction minimizes impacts to streams, lakes and marine waters
2 pursuant to SCC 30.62A.310.

3 (d) Road crossings are subject to the following requirements:

4 (i) road crossings on fish-bearing streams shall be designed according to the
5 guidelines set forth in Fish Passage Design at Road Culverts (Washington Department of
6 Fish and Wildlife, March 3, 1999); and

7 (ii) road crossings shall avoid interrupting natural rates of the downstream
8 movement of woody debris and sediment.

9 (e) Stream conveyances. Where feasible, stream conveyances shall avoid
10 interrupting natural rates of the downstream movement of woody debris and sediment.

11 (f) Docks, piers and floats are subject to the following requirements:

12 (i) use of toxic or treated materials that will come in contact with the water is
13 prohibited;

14 (ii) construction timing shall avoid critical life cycle stages of fish and wildlife;

15 (iii) these structures shall avoid critical saltwater habitats; and

16 (iv) joint use of docks, piers and floats shall be required where feasible.

17 18 **30.62A.340 Standards and requirements for activities conducted in wetlands.**

19 Protection of wetlands is inextricably linked to protection of the adjacent buffer areas. Standards
20 and requirements for the buffers adjacent to wetlands are found in SCC 30.62A.320. Additional
21 standards and requirements for development activities, actions requiring project permits and
22 clearing within wetlands are in this section.

23 (1) Standards for wetlands – prohibitions. The following actions are prohibited:

24 (a) Filling of estuarine wetlands, Natural Heritage wetlands, mature forested
25 wetlands and Category I bogs;

26 (b) Point discharges of stormwater into Category I bogs; and

27 (c) Septic systems and effective impervious surfaces within 300 feet of Category I
28 bogs.

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1 (2) Standards for wetlands – no mitigation required. All development activities, actions
2 requiring project permits and clearing that do not encroach into wetlands and provide buffers
3 consistent with the requirements of SCC 30.62A.320(1)(a) through (f) and the prohibitions in
4 SCC 30.62A.340(1) satisfy the avoidance criteria of SCC 30.62A.310(3) and do not require
5 mitigation.

6 (3) Standards for wetlands – mitigation required. The actions, structures and facilities
7 listed in this section are allowed only when they are determined to be unavoidable pursuant to
8 SCC 30.62A.310, are consistent with the prohibitions in SCC 30.62A.340(1), and are conducted
9 according to the standards and requirements identified in this section. When a permit is required,
10 an applicant must also provide a critical area study meeting the requirements of SCC 30.62A.140
11 and a mitigation plan meeting the requirements of SCC 30.62A.150.

12 (a) Except for estuarine wetlands, Natural Heritage wetlands, mature forested
13 wetlands and bogs, filling of up to one acre of wetland is allowed provided no other feasible
14 alternative exists.

15 (b) New utilities and transportation structures are allowed within wetlands provided
16 no other feasible alternative exists.

17 (c) Stormwater detention/retention facilities are prohibited in Category I bogs
18 pursuant to SCC 30.62A.340(1)(b) but otherwise allowed pursuant to the requirements of SCC
19 30.63A.240.

20 (4) Standards for wetlands – mitigation requirements.

21 (a) Mitigation ratios - To mitigate total loss of wetland functions, the ratios in Table 4
22 shall be required unless using the provisions for innovative development in 30.62A.350. The
23 ratios are expressed in terms of the units of area needed to replace the lost functions and values
24 of the wetland.

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Table 4 – Wetland Mitigation Ratios

Category/Type of Wetland	Creation	Enhancement ¹
All Category IV	1.5:1	3:1
All Category III	2:1	4:1
Category II Estuarine	innovative development only	4:1
All other Category II	3:1	6:1
Category I based on score for functions	4:1	8:1
Category I Natural Heritage site	Innovative development only	Innovative development only
Category I Coastal Lagoon	Innovative development only	Innovative development only
Category I Bog	Not allowed	Innovative design only
Category I Estuarine	Innovative development only	Innovative development only
¹ Enhancement is allowed in lieu of creation for up to one acre of wetland fill		

3 (b) To reduce wetland buffer widths from the width required for high intensity land uses,
 4 optional mitigation measures and process requirements may be applied to reduce wetland buffer
 5 widths as shown in 30.62A.320(1)(a) Table 2b.

6 (i) Optional mitigation measures.

7 (A) Mitigation measure 1. All applicable mitigation measures from Table
 8 5 may be used to mitigate impacts to wetlands from high intensity land uses. When
 9 fencing and/or separate tracts are used pursuant to this section additional buffer width
 10 reductions for fencing or separate tracts otherwise allowed in 30.62A.320(1) SCC shall
 11 not be applied;

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Table 5 – Mitigation Measures for High Intensity Land Uses

Examples of disturbance	Activities and uses that cause disturbances	Examples of measures to minimize impacts
Lights	<ul style="list-style-type: none"> • Parking lots • Warehouses • Manufacturing • Residential 	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Manufacturing • Residential 	<ul style="list-style-type: none"> • Locate activity that generates noise away from the wetland
Toxic runoff*	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Landscaping 	<ul style="list-style-type: none"> • Route all new untreated runoff away from wetland while ensuring that wetland is not dewatered • Establish covenants governing use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Commercial • Landscaping 	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters buffer
Change in water regime	<ul style="list-style-type: none"> • Impermeable surfaces • Lawns • Tilling 	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surface and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> • Residential areas 	<ul style="list-style-type: none"> • Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract
<p>* These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.</p>		

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1 (B) Mitigation measure 2. For Category I or II wetlands that score
2 moderate or high for habitat (20 points or more for the habitat functions), a habitat
3 corridor shall be preserved that meets the following criteria:

4 (I) Except as allowed in number (II) below, the habitat corridor
5 shall connect the Category I or II wetland with a habitat score of 20 or
6 more to any other wetland, fish and wildlife habitat conservation area or
7 buffer which is:

8 (aa) on the same property or within the same development,
9 including all phases proposed;

10 (bb) on adjacent properties and already protected as
11 NGPAs or CAPAs or other permanently protected open space
12 suitable for wildlife habitat use and which either extends to the
13 property boundary or connected by easement; or

14 (cc) on county, state or federal land used for forestry,
15 conservation or passive recreation parks.

16 (II) The habitat corridor may connect to a stormwater detention
17 facility, either on-site or on an adjacent site, if it is designed to replicate a
18 natural pond or wetland.

19 (III) The habitat corridor shall meet the following minimum
20 physical characteristics:

21 (aa) The corridor shall consist of a relatively undisturbed,
22 vegetated corridor.

23 (bb) The corridor shall maintain an average width equal to
24 the difference between the high intensity buffer and the standard
25 buffer for the relevant Category I or II wetland as shown in Table
26 6, except when the corridor is connecting two Category I or II
27 wetlands each with a habitat score of 20 or more and the corridor
28 maintains an average width of 100 feet, it will fulfill the
29 connection requirement for both wetlands.

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1 **Table 6: Average Width for Habitat Corridors (feet)**

Wetland Category	Description	Standard Buffer Width	High Intensity Buffer Width	Average Habitat Corridor Width
Category I	Washington Natural Heritage Program/DNR high quality wetlands	190	250	60
	Bogs	190	250	60
	Estuarine (at least 1 acre) & Coastal Lagoons	150	200	50
	High Level Habitat Function (habitat function score is 29-36)	225	300	75
	Moderate Level Habitat Function (habitat function score is 20-28)	110	150	40
Category II	Estuarine (less than 1 acre)	110	150	40
	High Level Habitat Function (habitat function score is 29-36)	225	300	75
	Moderate Level Habitat Function (habitat function score is 20-28)	110	150	40

2
3 (cc) The corridor shall maintain a width at each connection
4 not less than the required average width as described in (3)(bb)
5 above.

6 (dd) The Director may approve alternative configurations
7 which meet the intent of no net loss of habitat functions and values
8 pursuant to SCC 30.62A.350.

9 (IV) The following activities are allowed within the habitat
10 corridor:

11 (aa) If the corridor maintains an average width of 100 feet
12 or more, an unpaved trail – narrow single file walking path no
13 bicycles or motorized vehicles allowed – may be allowed.

14 (bb) Vegetation management is allowed as follows:

15 (A) hazardous tree management – creation of snags
16 and down logs is favored over tree removal whenever possible

17 (B) hand removal of invasive plant species

18 (C) removal of noxious weeds using bmps

19 (D) when trails are allowed as per (4)(aa) above,
20 minimal trail maintenance is also allowed

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1 (E) restorative/enhancement plantings with native
2 species to increase species diversity or replace plants lost to
3 disease or damage; and

4 (F) planting with native species along outer edge of
5 corridor to increase plant density and discourage disturbance or
6 intrusion.

7 (ii) Process requirements in Part 100 shall be supplemented with the necessary
8 information to document the mitigation locations and protection requirements, provide an
9 assessment of functions and values and evaluation of the level of protection achieved by the
10 mitigation measures and establish provisions for permanent protection.

11 12 **30.62A.350 Innovative development design.**

13 (1) A project permit applicant may request approval of an innovative design, which addresses
14 wetland, fish and wildlife habitat conservation area or buffer treatment in a manner that deviates
15 from the standards contained in Part 300. The applicant shall demonstrate in a critical area study
16 required pursuant to SCC 30.62A.140 how the innovative development design complies with the
17 following requirements:

18 (a) The innovative design will achieve protection equivalent to the treatment of the
19 functions and values of the critical area(s) which would be obtained by applying the standard
20 prescriptive measures contained in this chapter. Proposals offering better protection would also
21 be acceptable;

22 (b) Applicants for innovative designs are encouraged to consider measures prescribed in
23 guidance documents, such as watershed conservation plans or other similar conservation plans,
24 and low impact stormwater management strategies that address wetlands, fish and wildlife
25 habitat conservation area or buffer protection consistent with this section;

26 (c) The innovative design will not be materially detrimental to the public health, safety
27 or welfare or injurious to other properties or improvements located outside of the subject
28 property; and

29 (d) Applicants for innovative designs are encouraged to consider measures prescribed in
30 the PSAT 2005 Technical Guidance Manual for Low Impact Development and in chapter 30.63C
31 SCC.

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1 (2) Applicants proposing development activities on properties designated as Urban Center
2 Transit Pedestrian Village on the county’s Future Land Use Map may utilize the innovative
3 design provisions in this section to deviate from the requirements in Part 300. Such deviations
4 may include, but are not limited to provisions related to avoidance of impacts, standard buffer
5 widths, allowed uses in buffers and wetlands, mitigation ratios and use of off-site mitigation. The
6 applicant shall demonstrate in a critical area study required pursuant to SCC 30.62A.140:

- 7 (a) Why the deviation is necessary to implement the policies in the county’s
8 comprehensive plan General Policy Plan under objective LU 3.B; and
- 9 (b) How the innovative development design achieves protection at least equivalent to
10 the treatment of the functions and values of the critical area(s) which would be
11 obtained by applying the standard prescriptive measures contained in Part 300.

12 13 14 **PART 400 - CRITICAL SPECIES**

15 16 **30.62A.410 Purpose.**

17 This Part establishes standards and requirements for the protection of critical species, which
18 includes:

- 19 (1) Species listed as threatened or endangered under RCW 77.12.020 and Title 16 United
20 States Code;
- 21 (2) Species of local importance designated under SCC 30.62A.470; and
- 22 (3) The following species:
 - 23 (a) Larch mountain salamander;
 - 24 (b) Common loon;
 - 25 (c) Peregrine falcon;
 - 26 (d) Olympic mudminnow;
 - 27 (e) Pygmy whitefish; and
 - 28 (f) Gray whale.

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1 **30.62A.420 Applicability.**

2 (1) The provisions of this Part shall apply as of the effective date of the listing to all
3 development activities, actions requiring project permits and clearing occurring on a site
4 containing a primary association area for a critical species. The provisions of this Part shall
5 apply in addition to any other requirements of this chapter.

6 (2) Actions subject to this chapter not requiring a project permit should consult with state
7 or federal resource agencies with technical expertise and/or regulatory authority over such
8 critical species or necessary protection measures and comply with the administrative rules for the
9 species adopted pursuant SCC 30.62A.430.

10
11 **30.62A.430 Administrative rules authorized.**

12 In order to protect critical species and their habitats, the department shall develop administrative
13 rules under chapter 30.82 SCC within 120 days of the species listing that establish protection
14 requirements specific to these species and their habitats.

15
16 **30.62A.440 Administrative rules - minimum protection requirements.**

17 In developing administrative rules under this section, the department shall consider establishing
18 at least the following minimum protections:

- 19 (1) Establishment of the primary association area;
20 (2) Limitation on development activities within the primary association area;
21 (3) Limitation on access to the primary association area;
22 (4) Provisions for seasonal restrictions on construction activities where appropriate;
23 (5) Preservation of habitat for the critical species; and
24 (6) Permanent protection pursuant to SCC 30.62A.160.

25
26 **30.62A.450 General standards and requirements.**

27 Proponents for all development activities, actions requiring project permits or clearing shall
28 make all reasonable efforts to avoid and minimize impacts to critical species pursuant to the
29 requirements of this section, in the following sequential order of preference:

- 30 (1) Avoid impacts altogether by not taking a certain action or parts of an action; or

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1 (2) When avoidance is not possible, minimize impacts by limiting the degree or
2 magnitude of the action and its implementation, using appropriate technology, or by taking
3 affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts; and

4 (3) Comply with rules adopted pursuant to SCC 30.62A.430 and a habitat management
5 plan when required pursuant to SCC 30.62A.460.

6 7 **30.62A.460 Habitat management plan contents.**

8 For any development activity or action requiring a project permit occurring within the primary
9 association area of a critical species, the director may require all or a portion of the following:

10 (1) A critical area study meeting the requirements of SCC 30.62A.140;

11 (2) A map drawn to scale or survey showing the location and description of the primary
12 association area(s) of the critical species on the subject property;

13 (3) Evidence of use of the site by a critical species, including the location and nature of
14 use;

15 (4) An assessment of how the proposed activities will affect the critical species and/or
16 its habitat, and how the proposal will avoid, minimize or mitigate impacts to those critical
17 species and their habitats pursuant to SCC 30.62A.450. The department shall waive this
18 requirement when a proposed activity is consistent with the protection standards adopted in an
19 administrative rule developed pursuant to SCC 30.62A.430; and

20 (5) In the absence of an adopted administrative rule governing a listed species, the
21 applicant shall provide a habitat management plan consistent with the minimum requirements of
22 SCC 30.62A.440. In addition, the habitat management plan shall contain an assessment of best
23 available science applicable to the species, demonstrating how the proposal will provide
24 sufficient protection of the critical species and its habitat. Applicants are encouraged to consult
25 with the department, and federal and state agencies with technical expertise or regulatory
26 jurisdiction.

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1 **30.62A.470 Species of local importance.**

2 This section provides the process for the designation, nomination and protection of species of
3 local importance. The designation, nomination and protection strategies shall be based on best
4 available science.

5 (1) Designation criteria.

6 (a) Designation of species of local importance must be based on both the following
7 circumstances:

8 (i) protection of the native species and its primary association area through
9 existing policies, laws, regulations, or non-regulatory tools is not adequate to prevent
10 degradation of the species in the county; and

11 (ii) the primary association area nominated to protect a particular species is high
12 quality native habitat or has a high potential to be high quality habitat, or provides landscape
13 connectivity which contributes to the designated species' preservation.

14 (b) In addition to the requirements in SCC 30.62A.470(1)(a), designation of species
15 of local importance must also be based on one or more of the following circumstances:

16 (i) local populations of a native species are in danger of extirpation based on
17 existing trends;

18 (ii) local populations of a native species are likely to become threatened or
19 endangered under state or federal law;

20 (iii) local populations of a native species are vulnerable or declining;

21 (iv) the native species has recreational, commercial, or tribal significance; or

22 (v) long-term persistence of a native species is dependent on the protection,
23 maintenance, and/or restoration of the nominated primary association area.

24 (2) Petition Contents. The petition to nominate a species of local importance shall
25 contain all the following:

26 (a) A map showing the nominated primary association area location(s);

27 (b) An environmental checklist in conformance with SCC 30.61.100;

28 (c) A written statement that

29 (i) identifies which designation criteria form the basis of the nomination;

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1 (ii) includes supporting evidence that designation criteria are met; and
2 (iii) indicates what specific habitat feature(s) or plant communities are to be
3 protected (e.g., nest sites, breeding areas, and nurseries);

4 (d) Recommended management strategies for the species, supported by the best
5 available science and which meet the minimum requirements of SCC 30.62A.440; and

6 (e) An economic analysis identifying the cost of implementing a mitigation or
7 protection plan and the financial impact of the requested designation on affected properties or
8 local governments.

9 (3) Approval Process.

10 (a) Timing. Nominations for species of local importance will be considered by the
11 council no more than once per year. The department will accept proposals for amendments at
12 any time; however, proposals received after July 31st of each year will be processed in the next
13 annual review cycle.

14 (b) Process. The county may include a species of local importance for protection
15 pursuant to this section through adoption of legislation by the council. The council considers
16 whether to adopt a motion to list a species of local importance through the following process:

17 (i) any person may nominate species for designation by submitting a petition
18 meeting the requirements of SCC 30.62A.470(2) and payment of fees as required by
19 chapter 30.86 SCC;

20 (ii) the department shall complete a SEPA threshold determination and provide
21 notice of the petition as required under SCC 30.70.045 for SEPA threshold
22 determinations associated with a project permit;

23 (iii) the department shall review the submittal of the petitioner, and coordinate
24 and assemble all available comments of the public, other county departments, and other
25 agencies. Based on the available record, and any other information that may be available,
26 the department shall provide a staff report and recommendation to the council concerning
27 whether the petition meets the requirements for approval;

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1 (iv) the department shall submit to the executive an executive/council approval
2 form (ECAF) containing the staff recommendation, all relevant SEPA documents, and a
3 proposed motion which provides for disposition of the petition; and

4 (v) upon delivery of an ECAF to the council by the executive, the proposed
5 motion will be subject to the requirements of chapter 2.48 SCC.

6 (c) Cost of environmental studies. Any person submitting a petition to nominate a
7 species of local importance shall pay the cost of environmental review and studies necessary
8 under SEPA, as required under chapter 30.61 SCC. The person may, at his or her own expense
9 and to the extent determined appropriate by the responsible official, provide additional studies or
10 other information.

11 (4) Establishment of specific rules for protection. Within 120 days of an action by the
12 council, the department shall develop an administrative rule pursuant to chapter 30.82 SCC
13 addressing protection of the species of local importance in compliance with this section.

14 (5) The department may establish administrative procedures necessary to administer this
15 section.

16

17

18 **PART 500 - EXCEPTIONS**

19

20 **30.62A.510 Minor development activity exceptions.**

21 (1) Certain minor development activities may occur in wetlands, fish and wildlife
22 habitat conservation areas or buffers provided the project proponent complies with best
23 management practices (BMPs) adopted through rulemaking pursuant to chapter 30.82 SCC and
24 all known and available reasonable technology (AKART) appropriate for compliance with this
25 chapter. Best management practices are physical, structural, or managerial practices which have
26 gained general acceptance by professionals in the appropriate field to minimize and mitigate
27 adverse impacts to the functions and values of critical areas.

28 (2) All minor development activities authorized in this section shall comply with
29 administrative BMP rules upon adoption. Prior to adoption of such administrative rules, project
30 proponents shall comply with all known and available BMPs as defined in SCC 30.62A.510(1).
31 The director shall use his or her best efforts to adopt BMPs for the minor development activities

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1 listed in this section pursuant to the rulemaking provisions of chapter 30.82 SCC within 12
2 months of the effective date of this chapter.

3 (3) The following minor development activities may occur pursuant to this section:

4 (a) Normal maintenance and repair that does not expand the footprint of existing:

5 (i) improved public and private road rights-of-way,

6 (ii) utility corridors,

7 (iii) trails,

8 (iv) utility facilities,

9 (v) flood protection and bank stabilization structures,

10 (vi) stormwater facilities; and

11 (vii) structures;

12 (b) Minor replacement, modification, extension, installation, or construction by a
13 utility purveyor in an improved public road right-of-way;

14 (c) Survey or monument placement;

15 (d) Minor replacement or modification of existing facilities by a utility purveyor in
16 an improved utility corridor;

17 (e) Minor replacement or modification by a utility purveyor of individual utility
18 service lines connecting to a utility distribution system;

19 (f) Minor replacement, modification, minor installation or construction in an
20 improved road right-of-way by the county or by the holder of a current right-of-way use permit;

21 (g) All development activities in non-riparian Category II and III wetlands smaller
22 than 5,000 square feet, and non-riparian Category IV wetlands smaller than 10,000 square feet,
23 and their associated buffers;

24 (h) Removal of invasive weeds;

25 (i) Felling or topping of hazardous trees based on review by a qualified arborist;

26 (j) Minor replacement, modification or installation of drainage, water quality or
27 habitat enhancement projects; and

28 (k) All other on-going lawfully established development activities not specifically
29 addressed in this chapter.

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30.62A.520 Single family residential development exceptions in buffers.

New single family residential development, expansions of existing single family residences and ordinary residential improvements on lots existing prior to October 1, 2007 are allowed in buffers only as follows:

(1) New single family residential structures and ordinary residential improvements shall not disturb more than 4,000 square feet of the buffer;

(2) To the extent feasible, total effective impervious areas shall be limited to 10 percent within 300 feet of all waters and bogs containing salmonids;

(3) Expansion of an existing single family residence or accessory structure may be allowed within a buffer provided the footprint of the expansion does not exceed fifty percent of the existing structure, and the expansion is set back from the critical area a distance which is greater than or equal to the setback of the original structure;

(4) Development in the buffer shall be the minimum necessary to accomplish the uses described in this section;

(5) For new single family development, there must be no alternate location for the development outside of the buffer;

(6) Development in the buffer shall be located to avoid impacts to critical species;

(7) The buffer shall in no case be reduced to less than one half of the standard buffer as provided at 30.62A.320(1)(a) SCC or 25 feet, whichever is greater;

(8) To the maximum extent feasible, the development shall be designed to avoid the removal of existing native vegetation with emphasis on preservation of conifers greater than or equal to 24 inches diameter at breast height (dbh), and hardwoods greater than or equal to 20 inches dbh;

(9) New sewage distribution lines may be allowed in areas of the buffer containing native vegetation provided that the lines are installed without the aid of mechanical equipment, and the removal of any vegetation within the buffer shall be the minimum necessary to install the lines;

(10) A permanent fence shall be installed along the edge of the reduced buffer;

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1 (11) Mitigation for any encroachment into the buffer shall include, where beneficial,
2 enhancement of existing buffers on the site based on the following criteria:

3 (a) The enhanced buffer should be located between the residential structures and
4 improvements and the aquatic critical area; and

5 (b) The ratio of the area of buffer enhanced to the area of the buffer encroached
6 upon should be 2 to 1.

7

8 **30.62A.530 Emergency activities.**

9 Emergency activities necessary to prevent an immediate threat to public health, safety, welfare
10 or property, or to prevent an imminent threat of serious environmental degradation, are allowed
11 without prior approval in wetlands, fish and wildlife habitat conservation areas or buffers, based
12 on the criteria set forth in this section:

13 (1) The activity must be the minimum necessary to alleviate the emergency;

14 (2) The project proponent shall notify the department prior to any action taken to
15 remedy an emergency. If prior notification is not feasible, the project proponent shall notify the
16 department within 48 hours of the action; and

17 (3) Applications for any required project permits necessary to satisfy compliance with
18 this chapter are submitted to the department within 120 days of the start of the action taken. For
19 actions not requiring permits, compliance with this chapter shall occur within a reasonable time
20 period not to exceed twelve months.

21

22 **30.62A.540 Reasonable use.**

23 (1) A project permit applicant who is unable to comply with the specific standards of
24 this chapter without forfeiting all economically viable use of the property may seek approval of a
25 “reasonable use” allowance under this section. The application must be made on a form
26 provided by the department and accompany a project permit application.

27 (2) To qualify as a reasonable use, the director shall find that the proposal meets the
28 following criteria:

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1 (a) Application of this chapter will deny all economically viable use of the subject
2 property. In making this determination, the director shall also determine that:

3 (i) the subject property is an existing legal lot and the inability to derive
4 reasonable use of the subject property is not the result of actions by the applicant in
5 segregating, dividing or creating a condition on the site after April 1, 1995; and

6 (ii) the inability to derive all reasonable use of the subject property is not the
7 result of prior actions taken in violation of this title or any other local, state or federal law
8 or regulation; and

9 (b) The proposed development activity meets all other requirements of this title,
10 does not otherwise constitute a nuisance or pose a threat to public health, safety, and welfare on
11 or off the site.

12 (3) If the director determines that a project permit application meets the requirements of
13 SCC 30.62A.540(2), the project permit application may be approved where the director finds:

14 (a) The applicant has complied with Part 100 of this chapter;

15 (b) After review of the project under this chapter, there is no other permitted use of
16 the property with less impact on wetlands, fish and wildlife habitat conservation areas or buffers;

17 (c) The proposed alteration of a wetland, fish and wildlife habitat conservation area
18 or buffer is the minimum necessary to allow for reasonable use of the property. Activities shall
19 be located as far away as possible from wetlands, fish and wildlife habitat conservation areas and
20 buffers and low impact development techniques shall be used to the maximum extent possible.

21 In all cases, disturbance of a wetland, stream, marine water or lake may only occur if no
22 reasonable use can be achieved by disturbance of a buffer associated with that feature;

23 (d) The proposed activity is located to minimize impacts to critical species;

24 (e) If a reasonable use of a parcel cannot exist without modification of the required
25 front, side or rear setbacks or other bulk standards, the department may consider modifying those
26 standards only to the extent necessary to provide for a reasonable use, while providing as much
27 protection as is possible under the circumstances to critical areas, while maintaining the public
28 health safety and welfare. This section shall not relieve an applicant from the obligation of

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1 complying with applicable variance procedures set forth in chapters 30.43B and 30.43E SCC or
2 other applicable modification procedures adopted under this title; and

3 (f) To the greatest extent feasible, the project includes compensation and mitigation
4 for unavoidable impacts to the functions and values of critical areas regulated under this chapter
5 in accordance with the requirements of SCC 30.62A.150.

6

7 **30.62A.550 Mitigation banking.**

8 (1) The director may approve the establishment and use of a wetland, fish and wildlife
9 habitat conservation area or buffer mitigation bank to provide mitigation required by this chapter.
10 The director's approval may allow for deviations from the requirements of Parts 100 through 400
11 with respect to the treatment of wetlands, fish and wildlife habitat conservation areas or buffers.

12 (2) Criteria for approval of use of mitigation banks:

13 (a) The following must have been approved by the County and the federal, state
14 and local agencies with jurisdiction:

15 (i) a memorandum of agreement (MOA) defining guidelines for establishing a
16 wetland, fish and wildlife habitat conservation area or buffer mitigation banking program
17 and an implementation manual establishing a mitigation bank at a specific site; and

18 (ii) the MOA and/or implementation manual shall include, but not necessarily
19 be limited to, provisions for the following:

20 (A) the categories of development activities that may use the mitigation
21 bank;

22 (B) specific criteria and standards for use of the mitigation bank;

23 (C) methods for tracking credits;

24 (D) an interagency oversight committee composed of representatives from
25 each of the agencies with jurisdiction for the purpose of regulatory review and
26 approval of banking activities;

27 (E) permanent management and maintenance to assure the long-term
28 viability of the bank site;

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1 (F) professional construction oversight to ensure successful construction
2 of the mitigation bank site;

3 (G) quantitative and qualitative performance standards;

4 (H) systematic compliance and performance monitoring to determine the
5 degree to which the site meets performance standards;

6 (I) a schedule and timeline for compliance and performance monitoring,

7 (J) contingency plans;

8 (K) methods to be used to determine the functions and values of
9 replacement wetlands, fish and wildlife habitat conservation area or buffers;

10 (L) provisions for assuring the funding of long-term maintenance of the
11 bank and performance of mitigation and monitoring requirements;

12 (M) a description of wetland, fish and wildlife habitat conservation area or
13 buffer mitigation ratios to be used and justification for these ratios based upon best
14 available science. Mitigation ratios will be based upon consideration of factors
15 including but not limited to the likelihood of success of the mitigation, the types and
16 quality of wetland, fish and wildlife habitat conservation areas or buffers involved,
17 research results, and monitoring results;

18 (N) the mitigation plan requirements contained in SCC 30.62A.150. and

19 (O) provisions for mitigation sequencing that requires at minimum that all
20 proposals using a mitigation bank shall have made reasonable efforts to avoid and
21 minimize impacts to wetlands and fish and wildlife habitat conservation areas.

22 (b) The use of the mitigation bank will result in equivalent treatment of the
23 functions and values of the wetland, fish and wildlife habitat conservation area or buffer to offset
24 the impacts to critical areas functions and values on the project site such that the total net impact
25 will be no net loss of critical area functions and values in the watershed in which the impacts will
26 occur. Proposals offering a net gain of functions and values would also be acceptable. For the
27 purposes of this section, "watershed" means an area identified as a state of Washington water
28 resource inventory area (WRIA) under WAC 173-500-040.

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1 (c) The creation and operation of the mitigation bank and development activity
2 which utilizes the wetland, fish and wildlife habitat conservation area or buffer bank, shall not
3 create unmitigated long term or permanent adverse impacts to the critical functions and values of
4 the wetlands, fish and wildlife habitat conservation areas or buffers in the sub-drainage basin in
5 which the impacts will occur. Critical functions and values listed at SCC 30.62A.220 are those
6 that are important to the long-term ecological viability of the wetlands, fish and wildlife habitat
7 conservation areas or buffers in the sub-drainage basin.

8 (3) The director shall make MOAs and mitigation banking implementation manuals
9 available for public review and comment prior to approval.

12 PART 600 - AGRICULTURAL ACTIVITIES

14 30.62A.605 Purpose.

15 In accordance with RCW 36.70A.020, the Growth Management Act (GMA) goals require the
16 county to maintain and enhance natural resource-based industries, including commercial
17 agriculture. This Part implements the necessary balance between goals 8 and 10 of the GMA
18 relative to commercial agriculture and the protection of critical areas.

20 30.62A.610 Applicability.

21 This Part applies to agricultural activities as defined in SCC 30.91A.090, but not meeting the
22 definition of agricultural activities in SCC 30.62.015(1), occurring on lands where agriculture is
23 a legal use, where critical areas defined as wetlands or fish and wildlife habitat conservation
24 areas, or their buffers are present on the site.

26 30.62A.620 General Agricultural Standards.

27 Except as provided in SCC 30.62A.630, normal agricultural activities as defined in SCC
28 30.32B.230 or SCC 30.91A.090 subject to this Part 600 are in compliance with this chapter when
29 those activities are performed in accordance with (1), (2) or (3) below:

30 (1) The best management practices contained in the latest edition of the USDA
31 Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);

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1 (2) Other recognized best management practices for such activity that protect the
2 functions and values of critical areas, where the NRCS FOTG does not provide specific guidance
3 or a best management practice; or

4 (3) A farm conservation plan that includes provisions addressing critical areas
5 protection specific to the farm site approved by the NRCS or the Snohomish Conservation
6 District (SCD) and signed by the landowner. Any confidential or proprietary information
7 contained in a farm conservation plan may be redacted prior to public disclosure.

8 9 **30.62A.630 Special Agricultural Conditions.**

10 (1) Notwithstanding SCC 30.62A.620, agricultural activities as defined in SCC
11 30.32B.230 or SCC 30.91A.090 subject to this Part 600 that meet one or more of the following
12 special conditions shall comply with SCC 30.62A.630(2):

13 (a) Agricultural activities that require a county permit or project approval
14 except for a flood hazard permit required pursuant to chapter 30.43C SCC;

15 (b) In certain special flood hazard areas designated by the Federal Emergency
16 Management Agency (FEMA) as specified in SCC 30.65.040, the construction of agricultural
17 access or service roads greater than six inches average and twelve inches maximum height above
18 grade;

19 (c) Agricultural activities that occur in a wetland, except where:

20 (i) The activity is exempt from wetland regulation under Section
21 404(f) of the federal Clean Water Act;

22 (ii) The activity is occurring in a non-riparian Category II or III
23 wetland that is no greater than 5,000 square feet in size; or

24 (iii) The activity is occurring in a non-riparian Category IV wetland that
25 is no greater than 10,000 square feet in size; and

26 (d) Agricultural activities that bring land into agricultural use by removal of
27 native woody vegetation or alteration of surface or ground water flows, other than that which
28 results from normal cultivation.

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1 (2) The agricultural activities listed in SCC 30.62A.630(1) are in compliance with this
2 chapter when those activities are performed as follows:

3 (a) The activity complies with Parts 000 through 500 of this chapter;

4 (b) The activity is done in compliance with a farm conservation plan, as
5 described in SCC 30.62A.620(3); or

6 (c) The director issues a written decision finding that the landowner's compliance
7 with other state or federal regulations or permits provides sufficient protection on the site to
8 satisfy related critical areas requirements of this chapter.

9
10 **PART 700 – MONITORING AND ADAPTIVE MANAGEMENT**

11
12 **30.62A.710 Monitoring and adaptive management program.**

13
14 The Executive shall develop and implement a monitoring and adaptive management program to
15 establish a baseline and provide performance measures to determine whether the County is
16 achieving no net loss through its policies and programs affecting wetlands and fish and wildlife
17 habitat conservation areas, in conformance with the Natural Environment Element of the General
18 Policy Plan of the comprehensive plan. The program along with a budget shall be submitted for
19 approval to the County Council within six months of the effective date of this ordinance.

20
21 **30.62A.720 Monitoring and adaptive management program - contents.**

22
23 (1) Monitored critical areas shall include wetlands and fish and wildlife habitat conservation
24 areas.

25 (2) The purpose of the monitoring and adaptive management program is to

26 (a) Identify and collect meaningful data concerning the effectiveness of the county's
27 programs and policies concerning protection of wetlands and fish and wildlife habitat
28 conservation areas; and

29 (b) Identify corrective actions in response to a clear indication that the county's
30 programs are not sufficient to actually protect wetlands and fish and wildlife habitat conservation
31 areas.

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1 (3) The monitoring and adaptive management program shall be based on best available science,
2 and shall incorporate the following:

3 (a) Benchmarks that describe the state of existing functions and values of the monitored
4 critical areas and that are tied to the protective measures being assessed;

5 (b) Data collection methods that provides accurate measurements of the functions and
6 values of the monitored critical areas and that are tied to the protective measures being assessed,
7 including appropriate time periods for collection of data;

8 (c) Threshold levels for addressing management practices, regulations and other
9 measures that are determined through data collection and monitoring to be negatively affecting
10 functions and values of monitored critical areas. Thresholds are to be set in light of the
11 benchmarks for existing conditions and in accordance with scientifically-based habitat
12 minimums; and

13 (d) Strategies for adaptive management or addressing change to provide for expeditious
14 action in reaction to reaching a threshold level. The monitoring and adaptive management
15 program may provide for different strategies for action, depending on the critical area being
16 monitored, the cause of the negative impacts to functions and values, and other variables.

17

18 **30.62A.730 Monitoring and adaptive management program - reporting.**

19

20 (1) Starting in December, 2008, and each year following, the executive shall report to the
21 council on the monitoring and adaptive management program, using best available science, and
22 provide data and conclusions regarding the effectiveness of the county in achieving no net loss of
23 critical area functions and values. If net loss is detected, using scientifically valid techniques, the
24 executive shall report and recommend strategies for adaptive management.

25 (2) At any point when the monitoring program identifies a significant decline in functions and
26 values of a critical area or areas, the executive shall provide a report to the council as required in
27 SCC 30.62A.730(1).